

Town of Belchertown, MA

Friday, May 22, 2015

## Chapter 145. Zoning

### Article VII. Special Use Regulations

#### § 145-29.1. Accessory apartments.

[Added 5-12-2014 ATM by Art. 21]

- A. General objectives. The provision of accessory apartments is intended to:
- (1) Provide housing options for residents who cannot afford, or who do not desire, a single-unit house with land, for example, young adults and senior citizens; and
  - (2) Provide older owners with a means of obtaining rental income, companionship, security and services, and thereby enable them to stay more comfortably in houses and neighborhoods they might otherwise be forced to leave;
  - (3) Encourage a more economic and energy-efficient use of the Town's housing supply while maintaining the appearance and character of the Town's residential neighborhoods;
  - (4) Protect the stability, property values, and the single-unit residential character of a neighborhood by ensuring that accessory apartments are installed only in owner-occupied houses and are properly permitted and inspected;
  - (5) Add moderately priced rental units to the housing stock to meet the needs of smaller households and make housing units available to moderate-income households who might otherwise have difficulty finding housing;
  - (6) Provide housing units for persons with disabilities.
- B. Procedure. The Planning Board may issue a special permit for one apartment accessory to the use of a single-unit dwelling, provided each of the following conditions is met:
- (1) There shall be no more than one accessory apartment on an individual parcel of land, regardless of the parcel's area;
  - (2) The owner of the residence in which the accessory unit is created must continue to occupy at least one of the dwelling units as his or her primary residence. The special permit for the accessory apartment may be revoked by the Planning Board if the owner no longer occupies one of the dwelling units;

- (3) Up to 33% of the gross floor area of the dwelling, not to exceed 600 square feet maximum gross floor area, may be permitted for the accessory apartment; to provide for development of housing units for disabled individuals, the Planning Board may allow reasonable deviation from the stated conditions when necessary to install features that facilitate access and mobility for disabled persons.
  - (4) The accessory apartment shall have only one bedroom;
  - (5) There is no outward evidence that the premises are being used for more than one residential unit. That is:
    - (a) All stairways to apartments should be enclosed within the exterior walls of the dwelling. Otherwise, they must not be apparent from the street.
    - (b) Any new entrance shall be located on the side or in the rear of the dwelling.
    - (c) Where there are two or more existing entrances on the front facade of a dwelling, if modifications are made to any entrance, the result shall be that one entrance appears more prominent than the others.
    - (d) The accessory apartment must use the same driveway as the main dwelling unit;
  - (6) The accessory apartment must have the same street address as the main dwelling unit, but with the designation "A" for the apartment, for example, if the house is No. 123, the accessory apartment would be No. 123A.
  - (7) Accessory apartments are allowed only in the AG-A, AG-B, LR, and VR Zones, and only with a special permit from the Planning Board.
  - (8) Special permits issued under this section shall specify that the owner must occupy one of the dwelling units. Prior to the occupancy of the accessory apartment, the special permit must be recorded in the Hampshire Registry of Deeds or Land Court, as appropriate, in the chain of title to the property, with documentation of the recording provided to the Building Inspector/Zoning Enforcement Officer.
  - (9) When there is a transfer of ownership of a property with a permitted accessory apartment, the new owner may apply for transfer of the special permit for an accessory apartment by submitting a notarized letter of application stating that the new owner shall occupy one of the dwelling units on the premises. In extenuating circumstances of transfer, such as, but not limited to, inheritance, bankruptcy, or foreclosure, the owner may request the Planning Board modify the owner-occupancy requirement to allow reasonable time to establish occupancy. The period of owner non-residency will normally not exceed one year. During the non-residency period, the owner shall not be allowed to rent both units.
  - (10) Prior to issuance of an accessory apartment special permit, a floor plan must be submitted showing the building, including proposed interior and exterior changes to the building.
- C. Apartments created before the adoption of this bylaw. To ensure that accessory apartments in existence before the adoption of this bylaw comply with the Massachusetts Building Code:

- (1)

Apartments that lawfully existed before the adoption of this bylaw, but do not strictly conform to the terms of this bylaw, are exempt from the terms of this bylaw for the life of the current special permit.

- (2) The Planning Board may authorize, under a special permit and in conjunction with the building inspector, an accessory apartment in an owner-occupied single-unit dwelling. The Board shall review each existing apartment on its individual merits to determine if the dwelling conforms to the Massachusetts Building Code. The applicant must follow the same procedure described in this bylaw, including the submission of a notarized letter declaring owner-occupancy.